

INITIATIVE 205

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 205 to the Legislature is a true and correct copy as it was received by this office.

AN ACT Relating to the Office of State Inspector General; adding a new chapter to Title 43 RCW; reenacting and amending RCW 43.17.010; amending RCW 43.17.020; and adding a new section to chapter 41.06 RCW.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. **Purpose-** (1) It is the purpose of this chapter to create a new oversight and supervisory agency which shall be required to: (a) Investigate and resolve complaints of neglect, abuse or malfeasance by governmental agencies or employees; (b) Investigate and enforce fair and ethical practices by anyone doing business in the State; and (c) Cause cessation to any harmful or abusive practices immediately injurious to unwary or helpless parties. (2) This agency shall be authorized to enlist the assistance of qualified volunteers from the public sector, or the resources of other agencies, to ease the investigative caseload.

NEW SECTION. Sec. 2. **Definitions-** Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Office," or "this agency" or "department" refers to the Office of State Inspector General.

(2) "Fair and ethical practices" means that which does not cheat, abuse nor injure others.

(3) "Fairness and common sense" means that with which reasonable minds would concur and agree.

(4) "Reasonable minds" in this context means fair, impartial and benevolent.

(5) "Unwary or helpless parties" means those being abused, bullied or exploited, or whose lives or property are in jeopardy of unfair or unjustifiable disruption.

(6) "Lay individuals" means those not affiliated with governmental, business or special interest entities.

(7) "General public" means those not a party to an action by this agency.

NEW SECTION. Sec. 3. Vestment of Powers- There is created a department of State government to be known as the Office of State Inspector General, to monitor and enforce honesty and ethics, and improve oversight and accountability in governmental and business practices. The Office is vested with all powers and duties as are authorized by law, and the Legislature shall review the structures and procedures of this agency at interval towards improving it's operational effectiveness.

NEW SECTION. Sec. 4. Funding- (1) The Office of State Inspector General shall be financed by: (a) the State General Fund; (b) any federal grants for which it qualifies; and (c) any gifts, grants or endowments it receives from public or private entities. (2) The Office shall be authorized to purchase facilities, equipment and supplies in the conducting of it's business, and to enter into contracts with public or private entities for studies or other services. (3) The Office shall undergo a complete annual audit, and shall publish an annual report summarizing it's activities. (4) All files and reports of this agency shall be available for public review, with the exception of materials deemed confidential, or classified for military purposes.

NEW SECTION. Sec. 5. Independence of Agency- (1) It is intended that the Office of State Inspector General, a civilian post, shall be a People's Advocate in guarding against fraud or abuse from any quarter. Recognizing that maintaining the integrity of this agency is

critical, it shall remain independent of political or capital interests, and care shall be taken to prevent any undue influence or control of this agency by bar or police organizations, or any other vested interests who themselves might be subject to scrutiny by this agency. (2) In maintaining it's purely objective and benevolent mission, under no circumstances shall this agency exercise any police powers over the general public, nor shall it serve as a vanguard for any particular social, capital or political interests or agenda.

NEW SECTION. Sec. 6. Oversight by Executive Committee- An Executive Committee shall be established to oversee agency operations, to approve executive appointments within the agency, to accept reconsideration appeals from agency decisions, and to issue Executive Orders of Findings. The Executive Committee shall be comprised of six members, the majority of whom shall be lay individuals, and the Legislature shall determine the manner in which such members shall be installed, and their terms, so as to best assure integrity and continuity of mission.

NEW SECTION. Sec. 7. Directorship- The executive head of the Office shall be the Director. The Director shall be appointed by the Governor, with the consent of the Senate, upon demonstrating an unwavering commitment to upholding the rights of the people under the State and Federal Constitutions, and to uncovering abuse in any quarter. The Director shall be paid a salary fixed by the Governor in accordance with RCW 43.03.040, and shall be limited to a maximum of two four-year terms in office. Exercising supervisory powers over the Office, the Director may employ such assistants and personnel as are deemed necessary for the general administration of the Office, after consulting with and obtaining the approval of the Executive Committee. This employment shall be in accordance with State Civil Service law, Chapter 41.06 RCW, except as otherwise provided. The Director may also enlist the assistance of qualified volunteers from the public sector, as provided by State internship codes. The Director shall appoint a deputy director, an office personnel director, and such other assistant or division directors as may be needed to administer the Office. The deputy director shall have charge and general supervision of the Office in the absence or disability of the Director and, in case of vacancy in

the office, the deputy director shall continue in charge of the Office until a successor is qualified and appointed.

NEW SECTION. Sec. 8. Appointment of Consulting Committees- The Office may appoint state-wide committees or councils on such matters as come within the Office's responsibilities, and may also appoint such committees and councils as may be required by federal legislation as a condition to receipt of federal funds by the Office. These committees and councils shall have substantial consumer representation, and may be paid their travel expenses in accordance with RCW 43.03.050 and RCW 43.03.060, or per diem allowances as circumstances require.

NEW SECTION. Sec. 9. Grounds for Removal- (1) The Director shall be responsible for the official acts of all agency personnel under his direction. Recognizing that a cross section of the populace would likely yield a certain percentage of individuals who are abusive, devious or dishonest, or otherwise unbalanced, dysfunctional or potentially dangerous in their dealings with the public, this agency shall appoint only those individuals of the highest integrity and dedication. All prospective personnel in this agency shall undergo intelligence and psychological testing to ascertain basic sanity, reasoning powers, moral stability, and any biases they may harbor. Likewise, volunteers applying to act as interns with this agency shall undergo the same rigorous screening for competence and integrity as in the hiring of permanent staff. (2) To maintain a stable and reliable workforce, counseling should be available for personnel who may be experiencing difficulties in their personal lives, and temporary reassignment to less taxing decision-making duties should be available for those who may be having difficulty coping. The agency shall have procedures for reviewing complaints of remiss, or unreasonable or malevolent attitudes by agency personnel. A board of Supervisors shall be established to advise personnel, randomly examine files, and otherwise ascertain that cases are being handled in a proper, professional and timely manner. (3) Any unfounded abuse, neglect of duty or betrayal of the public trust shall be grounds for immediate suspension or dismissal, and/or criminal prosecution under RCW 43.01.125, or any other applicable statutes. (4) Personnel may be dismissed per state personnel processes, and personnel at any level may be subject to recall by an educated and informed electorate; *Provided,*

that pursuant to Constitutional provisions against reckless or irresponsible abuse of speech, any misleading, malicious or libelous reports designed to merely harass or intimidate any appointees in this agency should entitle this agency to equal time and space to rebut any unfounded or unjustifiable allegations.

NEW SECTION. Sec. 10. Filing Complaints- Complaints filed with this agency shall be submitted in writing, and the agency may require a Sworn Affidavit from complainants attesting to the accuracy and truthfulness of their allegations for an investigation to proceed. The agency may, at it's discretion, accept anonymous complaints where circumstances warrant. It being conceivable that frivolous, deceitful or malicious complaints might be filed by petty or troublesome individuals merely for the sake of harassment or obstruction, the agency may require suspect complainants to post a bond, or submit to a polygraph examination, for hearings to be convened. It shall be unlawful for anyone to retaliate against any complainant filing a grievance with this agency, but obviously frivolous complaints shall be prosecutable under harassment statutes.

NEW SECTION. Sec. 11. Authority to Conduct Hearings- (1) While efforts shall be made to resolve complaints quickly and amicably, this agency shall have authority to gather and evaluate facts through a hearing process. This agency shall have authority to issue subpoenas, conduct hearings, take testimony and exhibits, and issue agency decisions. (2) The Office shall have authority to rectify wrongdoings or deficiencies, and may do any of the following to resolve cases satisfactorily: (a) issue cease and desist warnings; (b) require some form of corrective action or restitution; (c) issue fines for wrongdoings, or for any wilful disregard of it's injunctions; (d) work with the Department of Licensing, or any other relevant agency, in compelling adherence. (3) The Office shall have authority to levy fines for wrongdoing in the amount of \$100.00 per day against individuals, \$500.00 per day against businesses, and \$1,000. per day against governmental bodies for continued infractions; or in such other amounts as would be considered necessary to halt deliberate infractions. In cases of unpaid fines, this agency may apply liens against the personal or business property of intentional wrongdoers, or liens converted to judgments against the wages or future earnings of

wrongdoers. (4) Injunctions sought by this agency shall be at the District Court level where applicable, and any court actions brought by this agency shall take precedence over all other cases, and be decided promptly. (6) While not intended to levy damage awards or criminal penalties for negligent or intentional injurious practices as might be ascertained through civil or criminal proceedings in a court of law, this agency may work with the courts in securing injunctions against personally harmful or abusive practices, and in all cases shall support injured parties against obdurate parties in any court proceedings.

NEW SECTION. Sec. 12. Conduct of Hearings- (1) The Office of State Inspector General shall determine the manner and format of hearings. Hearings shall be convened within 90 days of a complaints' receipt, and shall be held at a locale convenient to complainants. Municipalities may be requested to provide hearing facilities if needed. All hearing proceedings will be carefully audio-recorded, so that any transcripts will be accurate and complete. An agency decision shall issue within 120 days, and any complaints unresolved within 120 days shall be remanded to an office of special counsel for further proceedings or court action. (2) The 'adversarial' system of justice at play in most court settings appears to allow lawyers who know that their clients are involved in wrongdoing to misrepresent facts, or otherwise finagle the law, to harm or prevail over an opposing party to earn their fees. Such games and gamesmanship are the stuff of childish and criminal minds, which makes those lawyers hardly more than complicitors in their client's wrongdoing. Such practices shall neither be condoned nor tolerated by this agency. Hearings conducted before this agency shall be conducted without lawyers, and only those individuals who are mute, inarticulate or in need of interpreters shall be entitled to assistance in presenting facts for consideration. (3) Anyone whomsoever found to be lying, falsifying or misrepresenting any fact or matter before a hearing of this agency shall be remanded for felony prosecution by the Attorney General. (4) A Hearing Handbook shall be provided to all parties, and hearing rules shall be simple and concise, easily understood and applied by anyone, and devoid of legal jargon or obscure legal principles designed to confound the public. (5) All decisions by this agency shall be based strictly on fairness and common sense, as might be reached by any reasonable minds, and all

agency decisions shall include a full explanation of the facts and basis of that decision.

NEW SECTION. Sec. 13. Authority to Intercede Upon or Revise Incorrect Agency Actions- Where life or property are in imminent jeopardy of unfair or unjustifiable disruption, this agency shall have authority to suspend any local departmental order pending review by this agency; and thereafter to revise any actions deemed to be petty, overly burdensome or cruel. With regard to specific court cases which, upon examination of issues, appear to defy logic, veracity or fair play, this agency may petition to the State Supreme Court for a re-examination of the case; and thereafter shall work through the justice system towards modifying or interceding upon any decisions which are evidently incorrect or unjust.

NEW SECTION. Sec. 14. Cooperation by Public Employees Mandatory- (1) Exercising supervisory and disciplinary authority over all public agencies and employees operating in the State, public employee cooperation with investigations by this agency shall be mandatory. This agency shall have prompt and ready access to all public offices, facilities and records, and it shall be unlawful for any public employee to hinder, delay or fail to cooperate in investigations by this agency. All investigations by this agency shall be separate and independent of any investigations conducted in-house by factions representing their own, and it shall be unlawful for any public employee to fail to report the known abuses of another. (2) In cases of alleged malfeasance by executive or legislative officials, the Office shall have authority to submit prima facie evidence to a judicial panel convened for the purpose, and investigations shall proceed upon warrant of probable cause. (3) While having authority by Executive Order to fine, suspend, fire or recommend the arrest of any public employee for violations, malfeasance or crimes, this authority shall not extend to federal employees operating in the State, except to notify appropriate federal authorities of investigative findings. If violations persist after such notification this agency may, either on it's own behalf, or with the assistance of the Attorney General, institute court action against the appropriate federal agency towards correcting abuses or wrongdoings. (4) Should it subsequently become required by law that all public employees directly affecting the public

must carry a performance bond against intentional misconduct which harms the public, this agency shall conduct investigations to determine culpability and extent of damages, and shall thereupon assist injured parties in any court action to order restitution from the bond surety.

NEW SECTION. Sec. 15. Judicial Performance not Exempt from Review- (1) The concept of checks and balances being crucial to a democracy which serves it's people, the independence of judges does not imply that they should be unaccountable for crimes or abuses in office, and judicial personnel shall not be exempt from review by this agency. Cavalier attitudes by courts have a detrimental effect on the overall society; and lackadaisical practices and lax performance standards are dangers which can only result in a befuddled and confused system which more often than not harms, rather than helps, it's citizens. Americans have a right to expect, and virtually demand, that fairness and justice be exercised in their courts, and this agency shall review complaints of reckless neglect or abuse by judicial personnel. Any certifiable findings of flagrant judicial abuses such as disrespectfulness towards litigants, bias constituting obstruction of justice, deliberate evasion or misconstruance of facts leading to decisions reflecting other than fairness and common sense, or chronic bad decisions requiring appeal, shall be reported to appropriate venues with recommendations for reprimand or censure.

NEW SECTION. Sec. 16. Competency Tests, Compiling Reports- Should it become required by law that voters or jurors must undergo psychological and intelligence testing to ascertain basic sanity, reasoning powers and moral stability, or to determine any biases they may harbor, this agency shall assist in conducting tests, and compiling results, and disseminating recommendations.

NEW SECTION. Sec. 17. Proposed Legislations to Correct Wide-spread Violations- The Office of State Inspector General may, at it's election, forward proposed legislations towards correcting wide-spread violations it finds. The public shall be notified by publication of any such proposed legislations, and shall be afforded opportunities to register their views on them. The Office may also publish a daily roster of bills currently under consideration in the legislature, or any other governing agency, the rationale for each, and any commentary

it wishes to include on how they benefit, or fail to benefit, the public.

NEW SECTION. Sec. 18. **Appeals-** Anyone aggrieved by any action by this agency may appeal to any state or federal agency having monitoring jurisdiction over state agencies, provided that they post any required bond pertinent to the filing of such appeals. Any appeals to other agencies notwithstanding, any orders instituted by a decision of this agency shall remain in effect until such time as they might be overturned on review.

NEW SECTION. Sec. 19. A new section is added to Chapter 41.06 RCW to read as follows: The Civil Service provisions of this chapter shall not apply in the Office of State Inspector General to the director, the deputy director, or any assistant or division directors, and one confidential secretary for each of these officers.

NEW SECTION. Sec. 20. RCW 43.17.010 and 1993 SP,S C 2 S 16, 1993 C 472 S 17, AND 1993 C 280 S 18 are each reenacted and amended to read as follows: There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and community development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, ~~+(and)+~~ (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide, and (16) the office of state inspector general.

NEW SECTION. Sec. 21. RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 (Referendum Bill No. 45) are each amended as follows: There shall be a chief executive officer of each department to be known as: (1) the secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of

agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, ~~+(and)+~~ (15) the director of financial institutions, and (16) the director of the office of state inspector general. Such officers, except the secretary of transportation and the director of fish and wildlife, shall be appointed by the Governor, with the consent of the Senate, and hold office at the pleasure of the Governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

NEW SECTION. Sec. 22. Sections 1 through 18 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 23. **Severability-** Should any section, subsection, paragraph, clause, phrase, or sentence of this act be declared unconstitutional or invalid for any reason, such decision shall not effect the validity or enactment of the remaining portions of the chapter.